



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII
901 NORTH FIFTH STREET
KANSAS CITY, KANSAS 66101
**EXPEDITED SETTLEMENT
AGREEMENT (ESA)**

04 JUN 16 PM 3:48
ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

DOCKET NO: CAA-07-2004-0189

This ESA is issued to: The Offerle Cooperative Grain and Supply Company.

At: 610 North Seacat Road, Bucklin, Kansas

for violating Section 112(r)(7) of the Clean Air Act.

The United States Environmental Protection Agency, Region VII (EPA) and The Offerle Cooperative Grain and Supply Company, Bucklin, Kansas (Respondent) have agreed to a settlement of this action before filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(B)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. §§ 22.13(b), 22.18(b)(2).

The Complainant, by delegation of the Administrator of EPA, is the Director of the Air, RCRA, and Toxics Division. The Respondent is The Offerle Cooperative Grain and Supply Company, 610 Seacat Road, Bucklin, Kansas.

This is an administrative action for the assessment of civil penalties instituted pursuant to Section 113(d) of the Clean Air Act. Pursuant to Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), the Administrator and the Attorney General jointly determined that this matter, where the total penalty exceeds \$200,000 or where the first alleged date of violation occurred more than 12 months prior to the initiation of the administrative action, was appropriate for administrative penalty action.

ALLEGED VIOLATIONS

On October 30, 2003, an authorized representative of the EPA conducted a compliance inspection of the Respondent's facility located at 610 Seacat Road, Bucklin, Kansas, to determine compliance with the Risk Management Program regulations promulgated at 40 C.F.R. Part 68 under Section 112(r) of the Clean Air Act. EPA found that the Respondent had violated regulations implementing Section 112(r) of the Clean Air Act by failing to comply with the regulations as noted on the attached Risk Management Program Inspection Findings, Alleged Violations and Proposed Penalty Sheet (Findings), which is hereby incorporated by reference.

SETTLEMENT

In consideration of Respondent's size of business, its full compliance history, its good faith effort to comply, and other factors as justice may require, and upon consideration of the

entire record, the parties enter into the ESA in order to settle the violations, described in the attached Findings for the total penalty amount of \$ 1,020.00.

This settlement is subject to the following terms and conditions:

The Respondent by signing below waives any objections that it may have regarding jurisdiction, neither admits nor denies the specific factual allegations contained herein and in the Findings, and consents to the assessment of the penalty as stated above. Respondent waives its rights to a hearing afforded by Section 113(d)(2)(A) of the Clean Air Act, 42 U.S.C. § 7413(d)(2)(A), and to appeal this ESA. Each party to this action shall bear its own costs and fees, if any. Respondent also certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that the Respondent has corrected the violations listed in the attached Findings and has sent a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of \$1,020.00 in payment of the full penalty amount to the following address:

Mellon Bank
U.S. EPA Region VII
Regional Hearing Clerk
P.O. Box 360748M
Pittsburgh, Pennsylvania 15251

The DOCKET NUMBER OF THIS ESA, is CAA-07-2004-0189, and must be included on the check.

This original ESA and a copy of the check must be sent by certified mail to:

Julie M. Van Horn
Office of Regional Counsel
U.S. Environmental Protection Agency
Region VII
901 North Fifth Street
Kansas City, Kansas 66101

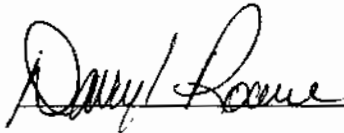
Upon Respondent's submission of the signed original ESA, EPA will take no further civil action against Respondent for the alleged violations of the Clean Air Act referenced in the Findings. EPA does not waive any other enforcement action for any other violations of the Clean Air Act or any other statute.

If the signed original ESA with an attached copy of the check is not returned to the EPA Region VII office at the above address in correct form by the Respondent within 45 days of the date of Respondent's receipt of it (90 days if an extension is granted), the proposed ESA is withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations identified herein and in the Findings.

This ESA is binding on the parties signing below.

This ESA is effective upon filing with the Regional Hearing Clerk.

FOR RESPONDENT:

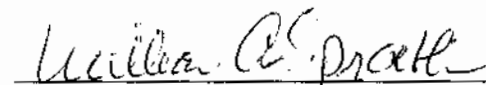
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Date: 6-7-04

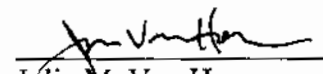
Name (print): Darryl Roane

Title (print): Crop Production Mgr.
The Offerle Cooperative Grain and Supply Company

FOR COMPLAINANT:

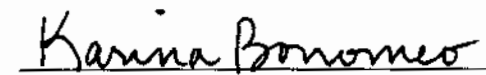
_____
William A. Spratlin, Director
Air, RCRA, and Toxics Division
EPA Region VII

Date: _____

_____
Julie M. Van Horn
Senior Assistant Regional Counsel
EPA Region VII

Date: 14 June 2004

I hereby ratify the ESA and incorporate it herein by reference. It is so ORDERED.

_____
Karina Borromeo
Regional Judicial Officer

Date: June 16, 2004

Risk Management Program Inspection Findings,
Alleged Violations and Proposed Penalty Sheet

Offerle Cooperative Grain and Supply
Bucklin, Kansas

VIOLATIONS	PENALTY AMOUNT
68.48(a)(5) - Compile and maintain codes and standards used to design, build, and operate the process.	\$150.00
68.48(c) - The owner or operator shall update the safety information if a major change occurs that makes the information inaccurate.	\$750.00
68.50(a) - The owner or operator shall conduct a review of the hazards associated with the regulated substances, process, and procedures.	\$450.00
68.50(c) - The owner or operator shall document the results of the review and ensure that problems identified are resolved in a timely manner.	\$150.00
68.50(d) - The review shall be updated at least once every five years. The owner or operator shall also conduct reviews whenever a major change in the process occurs; all issues identified in the review shall be resolved before startup of the change process.	\$450.00
68.56(a) - The owner or operator shall prepare and implement procedures to maintain the on-going mechanical integrity of the process equipment.	\$600.00

Calculation of Adjusted Penalty

- 1st Reference the Multipliers for calculating proposed penalties for violations found during RMP inspection matrix. Finding the column for 6-20 employees and the row for >10 times the threshold quantity amount gives a multiplier factor of 0.4. Therefore, the multiplier for Offerle Cooperative = 0.4.
- 2nd Adjusted Penalty = \$2,550 (Unadjusted Penalty) X 0.4 (Size-Threshold Multiplier)
Adjusted Penalty = \$1,020
- 3rd An Adjusted Penalty of \$1,020 would be assessed to Offerle Cooperative Grain and Supply for Violations found during the RMP Compliance Inspection. This amount will be found in the Expedited Settlement Agreement (ESA)

TOTAL	\$1,020.00
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IN THE MATTER OF The Offerle Cooperative Grain and Supply Company, Respondent
Docket No. CAA-07-2004-0189

CERTIFICATE OF SERVICE

I certify that the foregoing Expedited Settlement Agreement (ESA) was sent this day in the following manner to the addressees:


Copy hand delivered to
Attorney for Complainant:

Julie Van Horn
Senior Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Darryl Roan
Crop Production Manager
Offerle Cooperative Grain & Supply Co.
P.O. Box 90
Offerle, Kansas 67563

Dated: 6/16/04


Kathy Robinson
Regional Hearing Clerk